

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS**

TIMOTHY OWENS and SHELLEY OWENS, )  
Plaintiffs, )  
v. ) Case No. 3:16-CV-01009-NJR-RJD  
PRARIE STATE GENERATING COMPANY )  
Defendant. )

**DEFENDANT'S ANSWER AND DEFENSES**  
**TO COUNT I OF PLAINTIFFS' COMPLAINT**

Defendant Prairie State Generating Company (“Defendant” or “Prairie State”) provides its answer and defenses to Count I of Plaintiffs’ Complaint by stating as follows:<sup>1</sup>

1. Prairie State lacks knowledge or information sufficient to form a belief of the truth or falsity of the allegations of Paragraph 1, and therefore denies these allegations provided in Federal Rule of Civil Procedure 8(c)(5).
  2. Defendant denies that it operates an electrical power generating plant in St. Clair County, Illinois. Defendant admits the remaining allegations contained in Paragraph 2 of Plaintiffs' Complaint.
  3. Prairie State admits it hired Timothy Owens as a Facility Manager in December 2011. Defendant denies the remaining allegations in Paragraph 3.
  4. Defendant denies the allegations contained in Paragraph 4 of Plaintiffs' Complaint.
  5. Defendant denies the allegations contained in Paragraph 5 of Plaintiffs' Complaint.

<sup>1</sup> Defendant is filing simultaneously its partial motion to dismiss Counts II, III, IV and V of Plaintiffs' Complaint.

6. Defendant denies the allegations contained in Paragraph 6 of Plaintiffs' Complaint.

7. Defendant denies the allegations contained in Paragraph 7 of Plaintiffs' Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of Plaintiffs' Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of Plaintiffs' Complaint.

10. Defendant denies the allegations contained in Paragraph 10 of Plaintiffs' Complaint.

#### **COUNTS II – V**

Prairie State filed a Motion to Dismiss Counts II – V and does not answer those counts as a result in accordance with Rule 12(a)(4).

WHEREFORE, Defendant denies that Plaintiffs are entitled to any of the relief set forth in Count I of their Complaint. Defendant further denies that it is liable to Plaintiffs in any manner.

#### **JURY TRIAL DEMAND**

Defendants demand a jury trial by the maximum number of jurors provided by law with respect to each issue triable by a jury pursuant to Federal Rule of Civil Procedure 38(b).

#### **DEFENSES**

A. Subject to a reasonable opportunity for investigation and discovery, some of Plaintiffs' claims and/or damages may be barred by the doctrine of after-acquired evidence.

B. Subject to a reasonable opportunity for investigation and discovery, Plaintiffs have failed to mitigate his alleged damages.

C. Some or all of Plaintiffs' claims fail to state a claim upon which relief may be granted.

D. Plaintiffs' damages are limited by all applicable statutory caps and Plaintiffs' damages are otherwise barred by the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §§ 2601-2654.

E. Plaintiffs' claims for damages, including liquidated damages, are barred or limited by the FMLA, United States Constitution, the Illinois Constitution, and all other applicable laws.

F. Subject to a reasonable opportunity for investigation and discovery, Plaintiffs' claims for damages may be barred or limited by the doctrines of waiver, laches, estoppel, and/or unclean hands.

G. At all times, Defendant exercised good faith in its employment practices with regard to Plaintiff Timothy Owens and had reasonable grounds for its actions.

H. Defendant had legitimate, nondiscriminatory business reasons for any employment actions with regard to Plaintiff Timothy Owens, and those actions were unrelated to any exercise of his rights pursuant to the FMLA, or any other unlawful basis.

I. Plaintiffs' request for liquidated damages is barred or otherwise limited by Defendant's good faith, and its objectively reasonable belief that any act or omission on its part did not violate the FMLA.

J. Plaintiffs' request for liquidated damages is barred or otherwise limited by the steps that Defendant took to comply with the FMLA.

K. Defendant would have made the same decisions and taken the same actions for legitimate business reasons, regardless of any protect activity and/or allegedly unlawful motivation.

L. Defendant's actions with regard to Plaintiffs were justified as a matter of law.

M. Plaintiffs are not entitled to an award of attorney's fees and/or costs.

N. Plaintiffs' own conduct, as well as other conduct and events, contributed in whole or in part to Plaintiffs' alleged damages.

O. Superseding and intervening causes, over which Defendant had no control, caused or contributed to Plaintiffs' alleged damages, thus relieving Defendant from any liability for damages.

P. Plaintiffs were not treated any differently than any other employee because of any classification protected by law.

Q. Defendant's policies, practices, procedures, and/or conduct with regard to Plaintiffs were justified as a matter of law.

R. Defendant is entitled to a set off or credit against any amounts Plaintiffs may be awarded.

WHEREFORE, Defendant respectfully requests that Plaintiffs take nothing by way of his Complaint, that this matter be dismissed in its entirety, that judgment be entered in Defendant's favor, that Defendant be awarded the costs incurred in its defense of this matter, and that Defendant be granted all other relief deemed necessary and appropriate by the Court.

Respectfully submitted,

**HESSE MARTONE, P.C.**

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing was electronically filed with the Clerk of the Court and served upon the following using the CM/ECF system on this 26th day of October, 2016, to:

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